

## REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office Action dated March 23, 2005 are respectfully requested. By this response, claims 13, 23, 44, 47, 48, 49, 69, 76, and 77 have been amended to address a typographical error (claim 23) or to more clearly recite aspects of the invention (the other claims), and claims 62-68 and 78 have been canceled to expedite prosecution of this application.

The applicant's representative wishes to thank the Examiner for the personal interview held with Christopher Daley-Watson on July 20, 2005, and for the follow up telephone conference of August 4, 2005, where the Examiner recalled additional prior art references not on record in the prosecution of this application. These references will be discussed shortly.

References not on record are first discussed. Next, distinctions between claim 13 and the applied references are discussed, followed by distinctions between the applied references and the remaining independent claims.

### References not on record

In a telephone conference on August 4, 2004 between the applicant's representative and the Examiner, the following references not on record were discussed:

U.S. Patent No. 5,782,687, U.S. Patent Application No. 20030117667, JP Publication No. 11308430 and JP Publication No. 404212564.

The '687 patent is directed to a security cover for a fax machine, and is therefore not relevant to the claimed invention.

The '667 Application has a priority date of December 17, 2002 and the '430 JP Application has a priority date of April 22, 1998, and are therefore not believed to be prior art because the priority date of the current application is October 29, 1996.

The '564 JP Application is directed to the aversion of accumulating telegraphic messages at destination facsimile terminals. The '564 application (English abstract)

does not describe a system that chooses an alternative number based on information about a destination machine after an initial attempt to deliver a facsimile transmission fails.

### **Rejections under 35 U.S.C. § 102**

Claims 13-15, 19-22, 24-54, 56-68, 77 and 78 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gordon et al. (U.S. Patent No. 5,291,302).

The Office Action suggests that "obtained delivery information" as recited by claim 13 is identical to a delivery failure in Gordon. The Office Action further suggests that "selecting one of the alternative destination numbers as a second destination number, the selecting based at least in part on the obtained delivery information" is identical to "selecting by means of an operator a second destination number" based on this failure discussed by Gordon. Applicants respectfully disagree for the following reasons.

A failed delivery in Gordon is not "delivery information" as claim 13 describes. The method of claim 13 obtains delivery information in a step different from the step of "determining that the initial delivery attempt was unsuccessful." Therefore, the indication of a failure with an initial destination number cannot be "obtained delivery information." In other words, the method of claim 13 provides not only some delivery failure (like Gordon), but also provides additional information, and thus the failed delivery information of Gordon cannot represent both recited features of claim 13.

However, for the sake of clarity, claim 13 has been amended to recite "automatically retrieving multiple alternative destination numbers associated with the destination and already stored in a memory" and "automatically performing an additional attempt to deliver the document to the destination by obtaining delivery information related to delivering the document to the destination and not related to the initial delivery attempt."

In contrast to Gordon, the method described by claim 13 also selects an alternative destination number based on delivery information related to each of the

destination numbers, and not based on whether a first number failed (or not, based exclusively on whether the first number failed). The claimed method seeks to choose a best possible second number based on information known or obtained about the alternative numbers, in order to deliver a document in a more efficient manner. The system of Gordon merely indicates a failure to deliver a document, and requests an operator to make a decision as to how to proceed further, wherein the operator may choose to input a different number and attempt to transmit the document to the different number (which may or may not be associated with the original destination).

Applicants submit that claim 13 and dependent claims 14, 15, 19-22 and 24-43 are patentable over Gordon for at least the reasons stated above, and respectfully request the rejections be withdrawn.

Independent claims 44, 47, 48 and 49 recite similar elements to those in claim 13, including the elements of "obtaining delivery information related to delivering the document to the destination and not related to the unsuccessful delivery attempt" and "selecting...based at least in part on the obtained delivery information and in part on a rule-based process of a time-variable set of input conditions." One of the advantages of the rule-based process is that the system is able to determine automatically the next step or steps to be taken without the need for human intervention. The system retrieves input conditions (such as the "obtained delivery information") and invokes a rule-based process to determine a next action based on the input conditions, resulting in a subsequent delivery attempt. Additionally, the system may retrieve input conditions each time an unsuccessful delivery attempt occurs.

Therefore, claims 44, 47, 48 and 49, and dependent claims 45 and 46 are patentable over Gordon for at least the reasons stated above, and applicants respectfully request the rejections be withdrawn.

Claim 50 recites a computer-implemented method for facilitating delivery of a document from a source to a destination over a network after an initial delivery attempt has been unsuccessful, including the step of "initiating rule-based processing to determine a next action related to delivery of the document based on the determined group of current conditions at the remote destination."

The Office Action suggests that Gordon describes the host 85 as initiating rule based processing to determine a next action. Applicants respectfully disagree. As discussed in the previous response, the system of Gordon provides no indication that any rule-based processing occurs. On the contrary, Gordon clearly shows that the human "originator" gives instructions "as to how to dispose of the document" (Column 9, lines 40-46). Therefore, the system of Gordon does not show each and every element of claim 50 and does not anticipate the claimed invention.

Applicants submit that claim 50 and dependent claims 51-61 are patentable over Gordon for at least the reasons stated above, and respectfully request the rejections be withdrawn.

Independent claim 77 recites similar elements to those in claim 50, including the element of "automatically initiating a rule-based process to determine a next action." Therefore, claim 77 and dependent claims 45 and 46 are patentable over Gordon for at least the reasons stated above, and applicants respectfully request the rejections be withdrawn.

Claims 62 – 68 and 78 have been canceled to expedite prosecution of this application, and therefore the rejection over Gordon is moot.

### **Rejections under 35 U.S.C. § 103**

Claims 55, 69, and 70-76 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Greenstein et al. (U.S. Patent No. 5,065,426).

Claim 55 is dependent from claim 50, and therefore is patentable for at least the reasons discussed above with respect to claim 50.

Amended claim 69 recites a method for facilitating network delivery of a document from a source to a destination when an initial delivery attempt has been unsuccessful, including the step of "initiating a rule-based process to determine a next action, wherein the rule-based process at least identifies an occurrence of a non-business day at the destination" and "determining a next of multiple possible actions related to the delivery of the document based at least in part on the identification of the occurrence of the non-business day."

Claim 69 has been amended show that the identification of an occurrence of a non-business day at a destination occurs during a rule-based process invoked by the method. As discussed above, Gordon does not address this element.

As discussed in the previous response, neither Greenstein nor Gordon teach each and every element of amended claim 69.

Applicants submit that claim 69 and dependent claims 70-75 are patentable over Gordon in view of Greenstein for at least the reasons stated above, and respectfully request the rejection be withdrawn.

Claim 76 recite similar elements to those in claim 69, including the elements of "automatically initiating a rule-based process to determine a next action, wherein the rule-based process at least identifies an occurrence of a non-business hour at the destination." Therefore, claim 76 is patentable over Gordon in view of Greenstein for at least the reasons stated above, and applicants respectfully request the rejections be withdrawn.

### Conclusion

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3599. If the undersigned attorney has overlooked a relevant teaching in any of the references, the Examiner is requested to point out specifically where such teaching may be found.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 120148004US3 from which the undersigned is authorized to draw.

Respectfully submitted,  
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Date: 10/31/05

  
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